

Hamill, Elizabeth

Subject: FW: Cyprus: The Long Decline of International Law
Attachments: WASHINGTON-#5185508-v2-
House_and_Senate_European_Subcommittee_Staffer_Chart.DOC

For FARA. In case you need it, attached are the list of recipients I bcc'd on the email.

From: Budner, Amy
Sent: Friday, August 05, 2011 10:00 AM
To: Budner, Amy
Subject: Cyprus: The Long Decline of International Law

Good morning~

As you are likely aware, July 20, 2011 marked the 37th anniversary of the Turkish invasion of Cyprus. As such, we thought you may be interested in the following article. Please do not hesitate to let us know if you have any questions.

Sincerely,
Amy Budner

20th July 1974 : 37 Years from the Turkish Invasion of Cyprus

<http://europenews.dk/en/node/45462>

• Cyprus: The Long Decline of International Law

EuropeNews July 21 2011
By Henrik R. Clausen



Today, July 20th 2011, marks the 37th anniversary of the Turkish invasion of Cyprus. While such acts by the invading countries are generally held to be illegal (and rightly so), Turkey has gotten away with the invasion and the ensuing occupation with remarkably few consequences. This is in great extent due to the non-application of international law and fundamental principles in the matter. Conversely, a just and lasting solution to the Cyprus problem can be found in classical international law. Matters not that hard to understand.

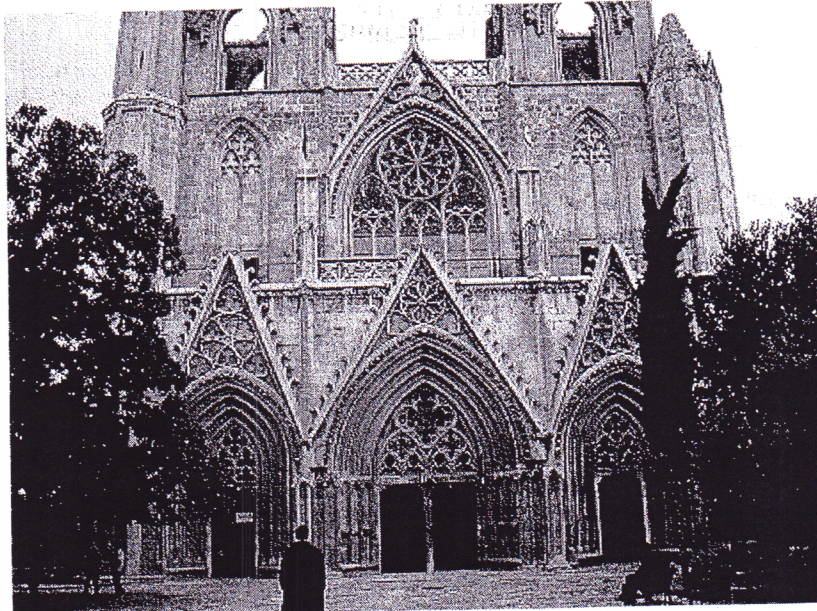
Prehistory

Cyprus has a traceable archaeological history dating back more than 10,000 years, and while having

8/5/2011

Received by NSD/FARA Registration Unit 08/05/2011 11:33:11 AM

been under a variety of rules over the last millennia, was never divided until the 20th century.



The St. Nicholas' Cathedral in Famagusta

The Ottomans invaded Cyprus in 1570, finally beat the Venetian stronghold of Famagusta in 1571, and ruled over Cyprus for over three centuries. This took place in a relatively civilized manner as compared to the Ottoman rule in the Balkans and elsewhere, but they did introduce a Turkish minority later to be the seed of trouble.

In 1878, Cyprus was leased to Great Britain in return for Britain helping the Ottoman Empire hold back Russian influence. In the 1923 Lausanne Treaty, which established the modern Republic of Turkey, all Turkish interests in Cyprus were written off, a fact that Turkey faithfully upheld until 1954. In 1925, Cyprus became a British crown colony, one of the last additions to the British Empire.

This frustrated many Cypriots hoping for the independence granted to other countries freed from Ottoman rule. In 1931 Cypriots (of all ethnicities, notably) rioted against the colonial rule, which unfortunately descended into violence and arson, led to the suspension of normal colonial rule. Allegedly, this also made the British decide to construct more mosques in order to strengthen the Turkish identity of the Muslim Cypriots, in order that Britain could maintain colonial rule there.

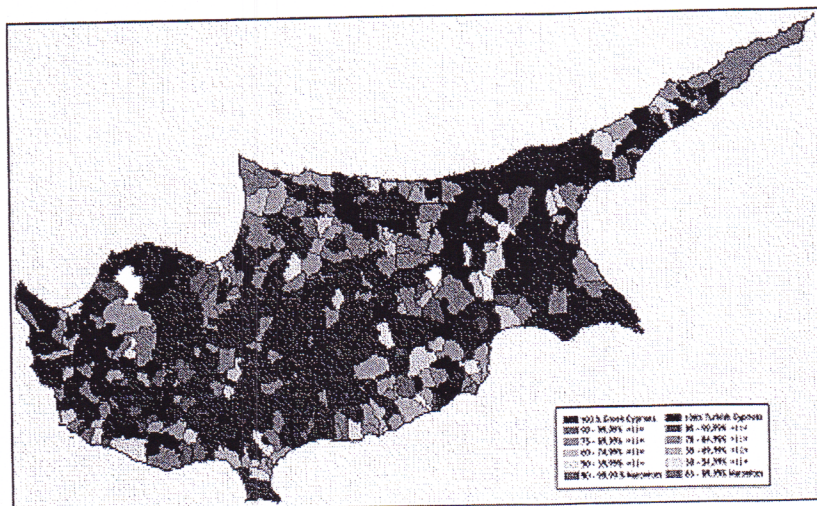
After World War II, which many Cypriots had participated in, there was a renewed hope for independence and union with Greece ('Enosis'), like Crete had obtained. A 1950 referendum organized by the Church of Cyprus showed a 95,7 % vote in favour of union with Greece. Application of the Woodrow Wilson 14 Points of self-determination of the peoples would imply that enosis would be the honest goal to pursue, with the protection of non-Greek minorities in Cyprus being a practical task to solve for that to work out. But applying that principle to Cyprus was not on the British agenda, possibly in part because giving Cyprus full independence would endanger the two British Sovereign Base Areas on the island.



Getting Turkey involved

8/5/2011

Britain, however, was not keen of simply leaving Cyprus to become an independent country like Ireland, India, Pakistan, Israel and other countries previously under British rule had accomplished. Instead the British government pushed Turkey to violate the terms of the Lausanne Treaty and in 1954 declare that if the British were to leave Cyprus, it should be "given back to its rightful owner", that is, Turkey. This constituted the first of many major violations of international law and treaties.



Ethnic map of Cyprus 1960

Turkey, never late to seize an opportunity, examined the matter internally and in line with the 1956 report by Niham Erim adopted a policy of seeking division ('Taksim') of Cyprus, to establish permanent Turkish influence there.

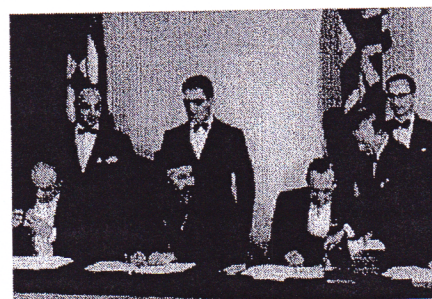
Their first major step was to establish the TMT underground army of roughly 10,000 Turkish Cypriots, armed and directed from Turkey. That would prove useful to Turkish interests in the years to come. The unspoken acceptance of Britain that Turkey could establish a proxy army in a neighbouring country was a serious violation of international law, principles of international relations and straight common sense.

Formal independence: The 1960 Constitution

On April 1st 1955, EOKA opened a guerilla war against the British colonial regime – explicitly not against the Turkish Cypriots or their interests. That led to a variety of British-led negotiations and conferences, demanding both Turkish and Greek participation, again disregarding the Lausanne Treaty terms that Turkey had no interest in Cyprus.

The result was the 1960 Constitution, which is still in force in south Cyprus, a Treaty of Alliance, and a Treaty of Guarantee granting Britain, Greece and Turkey rights of intervention in Cyprus with the intent of upholding the Constitutional order. The Constitution and the treaties were signed in 1959 and entered into force the following year.

Remarkably, military intervention in Cyprus according to the Treaty of Guarantee was merely a right, not an obligation, and thus the 'guarantee' component of the latter treaty was quite weak. As later events would show, it was more a liability than an asset for the Republic of Cyprus, marking another failure of international law to be upheld in good faith.



- Dervis Ali Kavazoglu, unionist in favour of peaceful coexistence.

The TMT took Cyprus from peaceful coexistence among its minorities to a state of civil war requiring UN intervention, in order to make world that peaceful coexistence was not an option. Their sponsors in Ankara certainly got a good return on investment here.

The invasion

On July 15th 1974, radical Greeks supporters of Enosis, supported by the junta regime in Athens staged a coup against Cypriot President Makarios, who narrowly escaped from the presidential palace. The Turkish response was swift and powerful, with a naval assault on July 20th capturing the seaport of Kyrenia and establishing a corridor to the Turkish-Cypriot enclaves near Nicosia, gaining control of 3 % of the area of Cyprus, expanded during the ceasefire upwards to 7 %. The invasion was codenamed "Attila 1", and triggered not only a collapse of the coup in Cyprus, but also a collapse of the 7-year junta regime in Greece proper. Neither the coup, nor any mistakes made by either party in Cyprus, could justify what was to follow.



For based on the premise of the Turkish invasion and the references made to the Treaty of Guarantee, one should think that after the Greek-supported had collapsed, Turkey would declare "Mission accomplished", pack up their army and leave. For, as the Treaty of Guarantee states:

In so far as common or concerted action may prove impossible, each of the three guaranteeing Powers reserves the right to take action with the sole aim Of re-establishing the state of affairs established by the present Treaty.

But Turkey had other plans: On August 14th, the second phase of the offensive ("Attila 2") commenced, capturing a full 38 % of the island, including the most fertile and developed parts, including the best of the farmland, most of the industry and the best developed tourist areas, as well as an extensive and unique cultural heritage of more than 500 orthodox Christian churches, monasteries and more.

This constituted an abandonment of some of the most sacred principles of international law, dating back from the Peace of Westphalia, including that international aggression is fundamentally illegal, and

requires a solid and well-defined reason to take place.

That the Turkish invasion could take place without objections from Britain or the United States might seem puzzling, but Turkey had secured support from US Foreign Secretary Henry Kissinger, and Britain stuck to the wording of the Treaty of Guarantee, that it had only an option, not an obligation, of military intervention with the aim of restoring the 1960 constitutional order. The United Nations Security Council reacted strongly with Resolution 353:

[The Security Council] calls upon all States to respect the sovereignty, independence, and territorial integrity of Cyprus.

- Calls all parties to cease fire.
- Demands an immediate end to the foreign military intervention in the Republic of Cyprus that is in contravention of point 1 above.

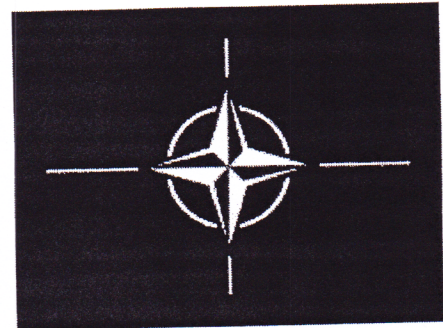


Given that the United States was in quiet approval of the Turkish invasion, their resolutions had no teeth to halt the Turks. International law had entirely given way to political expediency.

With the United States bogged down by the war in Vietnam, recession at home and the 1973 oil crisis only months behind, antagonizing a major NATO ally over problems on a small, remote island was not desirable to the US. With the US in quiet support of the invasion and Britain not keen on engaging in military action in the issue, the UN resolution was all bark with bite. Turkey knew that the invasion would not be countered by force, and could safely proceed to disregard international law, invade and occupy a major part of Cyprus.

Why NATO was not an option

One may wonder why Cyprus wasn't simply permitted to join NATO, both to ensure the security of the island itself and to provide the alliance with an important base in the eastern Mediterranean. As recently as February 2011, a vote in the Cypriot parliament favoured closer ties to NATO, but was vetoed by the Communist President Christofias. It is doubtful, of course, if Turkey would accept an application from Cyprus, as no major decisions in NATO take place without their consent. It is already bad enough that Turkey occupies over 1/3 of a foreign country – making that country an alliance partner would make the Turkish position look even more illegal.

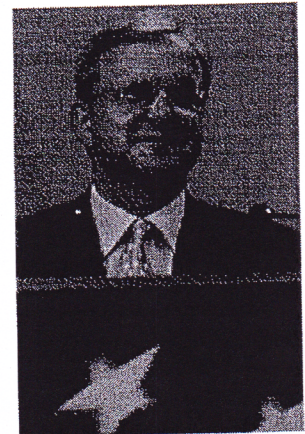


NATO is but one of the international organisations that Cyprus would like to join, but is being barred from by Turkey. The list also includes the Wassenaar Arrangement, the Open Skies Treaty, the International Energy Agency, OECD and more. Permitting Cyprus to join these fairly mundane organisations would constitute a de facto recognition that the Republic of Cyprus is the legitimate government of Cyprus, as agreed upon in the 1960 Constitution and Treaty of Guarantee, and would further expose the illegality of the Turkish occupation. Thus, political expediency and dodging the thorny legal issues are quite obviously better options for Turkey than respecting international law.

The European Union, Cyprus and Turkey

As early as 1972, Cyprus signed an Association Agreement with the European Union, the normal precursor to a membership application. The Turkish invasion halted progress in that direction, but the pace picked up again in 1987 with the signing of the second phase of the Association Agreement, and the formal application for EU membership was submitted in 1990. Cyprus became full member of the European Union in May 2004. Interestingly, the membership applies to the entire island of Cyprus, but the practical implementation in the north is temporarily suspended due to the Republic of Cyprus being unable to exercise its authority there. Other issues than the occupation itself, like Turkey not respecting the customs union it has signed, illustrate the hopelessly strained relations between Cyprus and Turkey.

European Commissioner Olli Rehn has repeatedly stressed that "Good neighbourly relations" is one precondition for becoming a candidate country to the European Union. The position of Turkey towards Cyprus can hardly be considered "Good neighbourly relations", but as in so many other cases, political expediency trumps international law and lofty principles. Such principles may be good for public declarations intended to build public confidence in the work of politicians and civil servants, but are all too frequently set aside in practice.



The Cyprus problem alone, wholly apart from the problems inside Turkey proper, and the conditions for EU membership should exclude Turkey from any notion of becoming member of the European Union. For, as the European Parliament report dryly states, the Parliament:

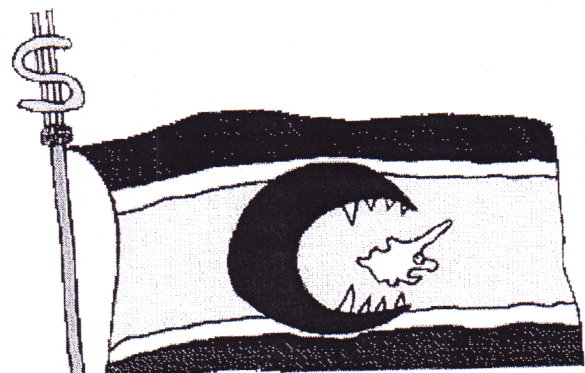
calls on the Government to facilitate a suitable climate for negotiations by starting to withdraw its forces from Cyprus immediately.

This would be principled and forward-looking, and in line with international law. Unfortunately there are no signs that Turkey is currently contemplating such a move.

A path forward

The problems in Cyprus have been ongoing for more than five decades now, and although having a lower profile than oft-repeated (and oft-broken) promise to Bring peace to the Middle East, still attracts the attention of international bodies seeking to solve the conflict on behalf of the Cypriots. The latest major attempt was the so-called Annan Plan, which UN General Secretary Kofi Annan gave his name to. The plan was rejected by 76 % percent of the Greek Cypriot population in a referendum on April 24th 2004.

Apart from the strange fact that the plan was still modified up to April 23rd, it is also quite easy to see why the Cypriots did not accept it: It would de facto legitimize the invasion of their country and the ensuing occupation, solidify rather than abolish the division, and severely weaken the property rights of the 200,000 Cypriots driven out of the north by the Turkish invasion. Some even say it was built to fail, in order that the Turks and the European Union could blame the Greek Cypriots for the failure.



With the political expediency of the Annan Plan laid to rest by a referendum that (according to its own text) rendered it "null and void", there is now some breathing space to look for a solution based solidly on international law instead. One of the main reasons that political expediency tends to beat international law in matters Cyprus is that the foreign players involved are so much larger than Cyprus itself. All of Great Britain, Turkey, and the United States of America have a variety of interests and priorities that do not automatically align with the interests of the Cypriots.

The need for independent analysis

To analyse things more clearly in the light of international and European law, one needs to turn to independent experts. One such expert is Alfred de Zayas, who in a series of articles and lectures outlined proposals for a principled and lasting solution to the Cyprus problem and an end to the Turkish occupation. A solidly legal solution would adhere to several fundamental principles, including:

1. The Peaceful Settlement of Disputes
2. The Sovereignty, Independence and Equality of States
3. The Prohibition of the Act and Consequences of Aggression
4. Respect for Human Rights
5. Democracy
6. The Rule of Law
7. Respect for property rights

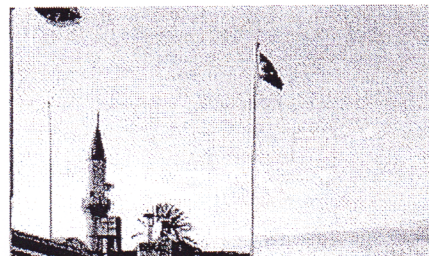


Alfred de Zayas in his articles explains eloquently why the Annan Plan fails on all of these accounts, identifies issues that need to be addressed in a proper solution, and sets forth proposals for how to proceed. His articles are neither overly long or difficult to read, and are highly recommended for anyone seeking to understand the core issues of the Cyprus problems and the need to address them in good faith with the aim of obtaining a legally correct, fair and lasting solution. Key to that is placing responsibility where it belongs, restoring property to its proper owners, and paying reparations for any neglect, looting or destruction that has taken place, in particular to the property of the Church of Cyprus.

Genuine progress is on the ground

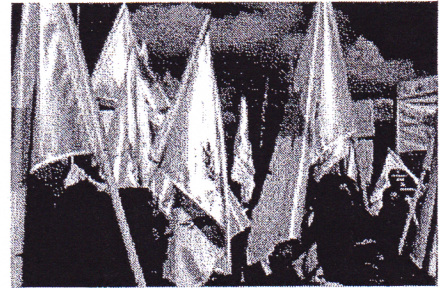
In a remarkable decision, the property rights of the 200,000 Cypriots expelled in the 1974 invasion was upheld in the case Apostolides Vs. Orams. It is an interesting twist that the Orams were represented by Cherie Blair, wife of long-time Turkey supporter and British prime minister Tony Blair. The European Court of Justice upheld the property rights of Mr. Apostolides as not being invalidated by the Turkish invasion, and in turn ordered the Orams to compensate him for the illegal use of his property. Thus, all Cypriots displaced by the Turkish invasion, and their heirs, have a legal right to their property in the north.

But probably the most significant progress was the opening of passage between north and south that started carefully in 2003, in 2008 included the highly symbolic Ledra Street Crossing, and is now firmly established routine. Any EU citizen is free to pass between north and south, and only when passing into the Turkish-occupied zone one is requested to show personal papers. It was feared that violence would resume due to old antagonisms



resurfacing, but after 15 million passings and no incidents of the kind, it is now proven that such violence-inducing antagonism does not exist, and thus one of the main Turkish justifications for the continued occupation is null and void.

Particular remarkable is the attitude of the Turkish Cypriots, now outnumbered in their own part of the island by Turkish soldiers and illegal settlers. At least three major demonstrations were held in 2011 in protest against the Turkish regime in the north, with many carrying the flag of Cyprus (incidentally designed by a Turkish Cypriot Ismet Güney) as a sign of their desire to have the Turkish occupation lifted and the island reunited. They do not desire more 'Turkishness', but rather a Cyprus freed from Turkish dominance. The Turkish government has recognized the problem and seeks to rebuild good relations to the Turkish Cypriots.




In conclusion

The Cyprus problem is a long series of failures to uphold international law, in letter, in spirit as well as in principle, due mainly to the large powers with interests in and around Cyprus choosing political expediency over legally solid solutions. While this may seem to work in behind-the-scene deals, it becomes disgraceful when exposed to rational criticism. For a just and lasting solution to be found in Cyprus, international law and its vital principles can not reasonably be ignored.



Posted July 21st, 2011 by hrc

Amy L. Budner
Public Policy Advisor
Patton Boggs LLP
2550 M Street, NW
Washington, DC 20037
(dir) 202.457.6154
(fax) 202.457.6315

 Please consider the environment before printing this email.

*This material is distributed by Patton Boggs LLP on behalf of the Embassy of the Republic of Cyprus.
Additional information is available at the Department of Justice in Washington, D.C.*

Member	Staff Contact Name	Staff Contact Email
Sen. Jeanne Shaheen (D-NH), <i>Chairman</i>	Chad Kreikemeier	chad_kreikemeier@shaheen.senate.gov
Sen. Ben Cardin (D-MD)	Rori Kramer	rori_kramer@cardin.senate.gov
Sen. Robert Casey (D-PA)	Damian Murphy	damian_murphy@casey.senate.gov
Sen. Jim Webb (D-VA)	Marta McLellan Ross	marta_mclellanross@webb.senate.gov
Sen. Richard Durbin (D-IL)	Chris Homan	chris_homan@durbin.senate.gov
Sen. John Kerry (D-MA), <i>Ex Officio</i>	Frank Lowenstein Jason Bruder	frank_lowenstein@foreign.senate.gov jason_bruder@foreign.senate.gov
Sen. John Barrasso (R-WY)	Amber Bland	amber_bland@barrasso.senate.gov
Sen. James Risch (R-ID)	Chris Socha	chris_socha@risch.senate.gov
Sen. Bob Corker (R-TN)	Stacie Oliver	stacie_oliver@corker.senate.gov
Sen. Jim DeMint (R-SC)	Lydia Morgan	lydia_morgan@demint.senate.gov
Sen. Richard Lugar (R-IN), <i>Ex Officio</i>	Kenneth Myers	kenneth_myers@foreign.senate.gov

Member	Staff Contact Name	Staff Contact Email
Rep. Dan Burton (R-IN), <i>Chairman</i>	Bethany Eyre	bethany.eyre@mail.house.gov
Rep. Elton Gallegly (R-CA)	Richard Mereu	richard.mereu@mail.house.gov
Rep. Gus Bilirakis (R-FL)	Elizabeth Hittos	elizabeth.hittos@mail.house.gov
Rep. Tim Griffin (R-AR)	Stephen Chandler	stephen.chandler@mail.house.gov
Rep. Tom Marino (R-PA)	Matt Minora	matt.minora@mail.house.gov
Rep. Jean Schmidt (R-OH)	Dee Weghorst	dee.weghorst@mail.house.gov
Rep. Ted Poe (R-TX)	Luke Murry	luke.murry@mail.house.gov
Rep. Gregory Meeks (D-NY), <i>Ranking Member</i>	Sophia Lafargue	sophia.lafargue@mail.house.gov
Rep. Eliot Engel (D-NY)	Jason Steinbaum	jason.steinbaum@mail.house.gov
Rep. Albio Sires (D-NY)	Hannah Izon	hannah.izon@mail.house.gov
Rep. Theodore Deutch (D-FL)	Casey Kustin	casey.kustin@mail.house.gov

Member/Committee	Staff Contact Name	Staff Contact Email
Commission on Security and Cooperation in Europe (Helsinki Commission)	Ronald J. McNamara	ronald.mcnamara@mail.house.gov
Rep. Karen Bass (D CA-33)	Jenny Wood	jenny.wood@mail.house.gov
Rep. David Cicilline (D-RI)	Jessica Lemos, LD	jessica.lemos@mail.house.gov